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July 15, 2005

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JUL 15 2005

PUBLIC SERVICE
COMMISSION

Via Hand Delivery

Hon. Beth O'Donnell
Executive Director
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, KY 40601

Re: Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc., KMC Telecom III LLC, and Xspedius Communications, LLC on Behalf of Its Operating Subsidiaries, Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended, before the Public Service Commission of the Commonwealth of Kentucky, Case No. 2004-00044

Dear Ms. O'Donnell:

Enclosed herewith is the original and eleven copies of the Joint Petitioners Petition for Confidential Treatment for filing in the above-styled matter.

If you have any questions with respect to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP

John E. Selent

Hon. Beth O'Donnell
July 15, 2005
Page 2

JES/bmt
Enclosures

cc: Amy E. Dougherty, Esq.
All Parties of Record

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

COPY

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In the Matter of:)
)
) JUL 15 2005
)
) PUBLIC SERVICE
Joint Petition for Arbitration of NewSouth)
Communications Corp., NuVox Communications,)
Inc., KMC Telecom V, Inc., KMC Telecom III)
LLC, and Xspedius Communications, LLC on)
Behalf of Its Operating Subsidiaries Xspedius)
Management Co. Switched Services, LLC)
Xspedius Management Co. of Lexington, LLC and)
Xspedius Management Co. of Louisville, LLC)
) Case No. 2004-00044

PETITION FOR CONFIDENTIAL TREATMENT

NuVox Communications, Inc. (“NuVox”), Xspedius Management Co. Switched Services, LLC, Xspedius Management Co. of Lexington, LLC, and Xspedius Management Co. of Louisville, LLC (“Xspedius”) (collectively, “Joint Petitioners”), by counsel, pursuant to 807 KAR 5:001 § 7 and KRS 61.878(1)(c)(1)-(2), request that the Public Service Commission of the Commonwealth of Kentucky (the “Commission”) afford confidential treatment to the enclosed, sealed discovery materials (“Information”) produced to BellSouth within the North Carolina proceeding in Docket Numbers, P-772, P-913, P-989, P-824, and P-1202. These materials are hereby filed in this proceeding pursuant to the Parties’ joint stipulation.¹ In support of their petition, Joint Petitioners state as follows:

I. Applicable Law.

807 KAR 5:001 § 7(2) sets forth the procedure by which certain information filed with the Commission may be treated as confidential. Specifically, the party seeking such confidential treatment of certain information must “[set] forth specific grounds pursuant to KRS 61.870 *et*

¹ BellSouth filed a similar motion seeking confidential treatment for certain materials on June 23, 2005. Joint Petitioners do not oppose that motion.

seq., the Kentucky Open Records Act, upon which the commission should classify that material as confidential[.]” 807 KAR 5:001 § 7(2)(a)(1).

The Kentucky Open Records Act, KRS 61.870 *et seq.*, exempts certain records from the requirement of public inspection. *See* KRS 61.878. In particular, KRS 61.878 provides as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction...
 - (c) 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records[.]

Id.

II. The Information Should Be Classified as Confidential.

Read in conjunction, 807 KAR 5:001 § 7(2)(a)(1) and KRS 61.878(1)(c)(1) provide that the Commission may classify the Information as confidential if the open disclosure of the Information to the general public “would permit an unfair commercial advantage to competitors of the entity that disclosed the records[.]” *See* KRS 61.878(1)(c)(1).

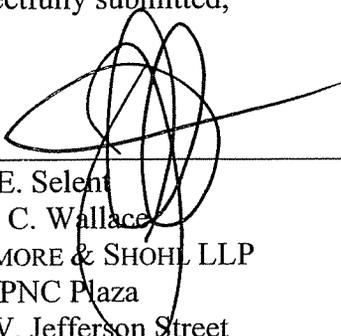
In the present case, the disclosure of this Information to the public would grant an unfair commercial advantage to Joint Petitioners’ competitors and potential competitors. Disclosure of this Information to the public would allow Joint Petitioners’ competitors and potential competitors free access to all of the substantial research and business analysis Joint Petitioners have developed. Access to this Information would allow Joint Petitioners’ competitors and potential competitors to identify the terms and conditions under which the Joint Petitioners

provide service to their customers. Joint Petitioners' competitors would have inside information regarding the Joint Petitioners' business plan, which would enable the competitors to target Joint Petitioners' customers in an effort to entice them to switch from the Joint Petitioners' service to one of the competitors. This Information would also give Joint Petitioners' competitors a distinct commercial advantage due to the inability of the Joint Petitioners to likewise determine the business plans of their competitors, and the terms and conditions under which the competitors provide service to their respective customers.

807 KAR 5:001 § 7(2)(a)(1) and KRS 61.878(1)(c)(1) expressly authorize the Commission to classify the Information as confidential (and thereby restrict public access to the Information), provided the disclosure of the Information to the public would permit Joint Petitioners' competitors to gain an unfair commercial advantage. For the reasons set forth above, the disclosure of the Information will provide Joint Petitioners' competitors with an unfair commercial advantage.

WHEREFORE pursuant to 807 KAR 5:001 § 7 and KRS 61.878(1)(c)(1), Joint Petitioners request the Commission to grant their Petition directing that the attached Information be afforded confidential treatment.

Respectfully submitted,



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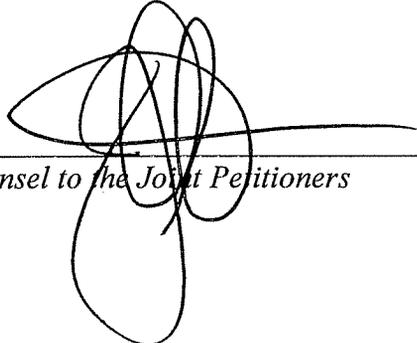
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Counsel to the Joint Petitioners

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing was served by mailing a copy of the same by First Class United States Mail, postage prepaid to the parties shown on the attached service list this 14th day of July, 2005.

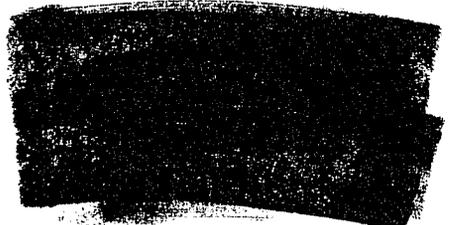
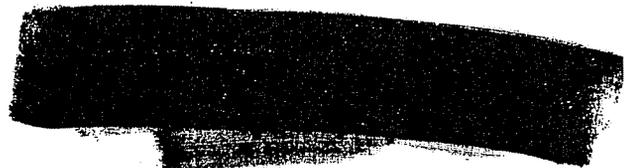
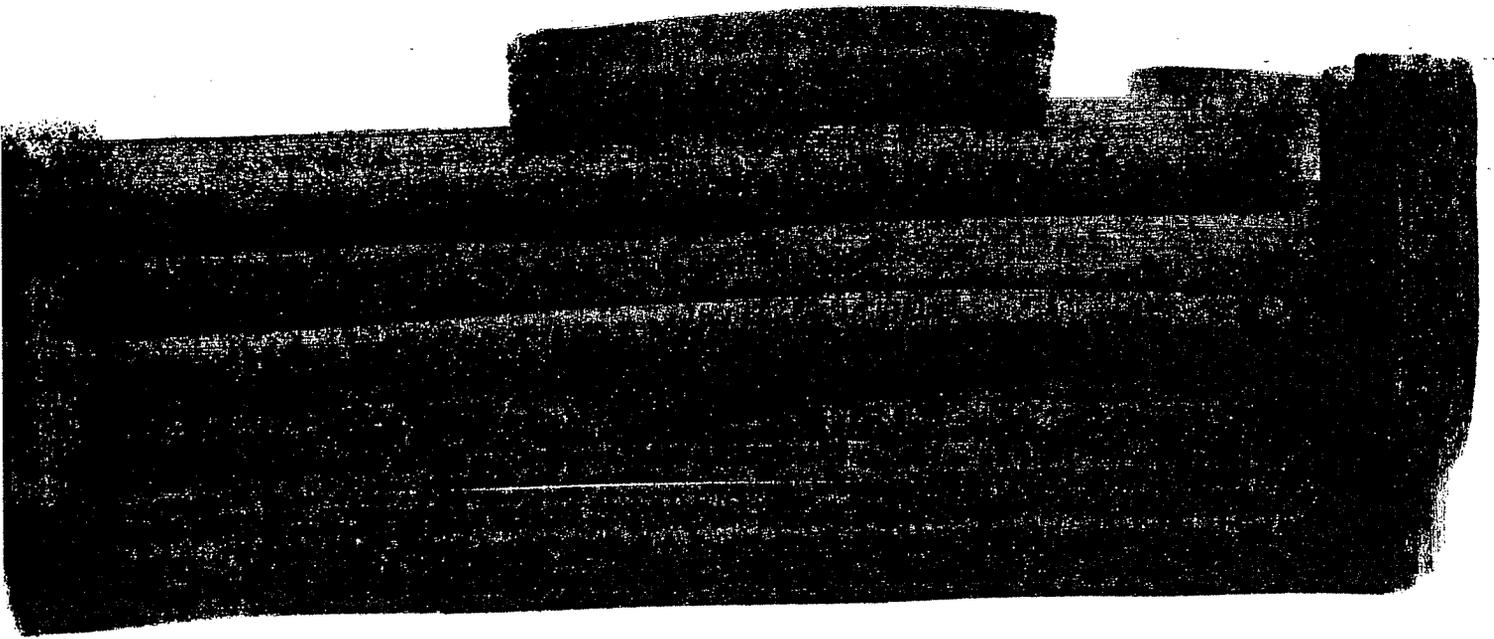


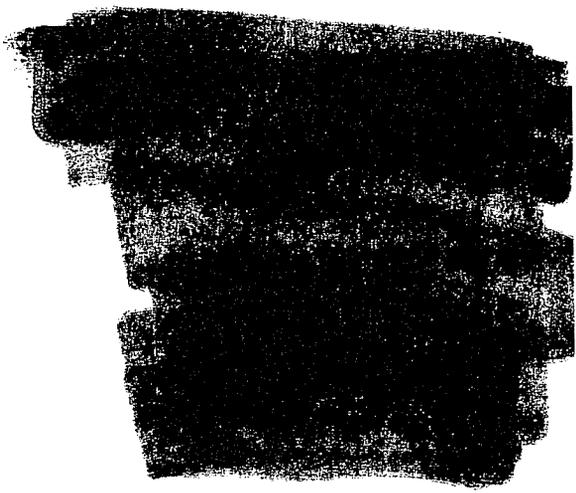
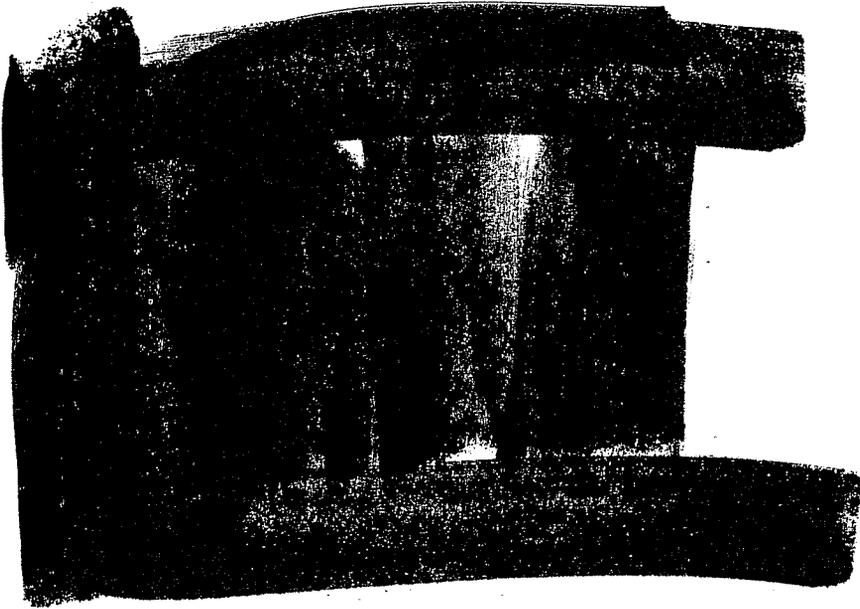
Counsel to the Joint Petitioners

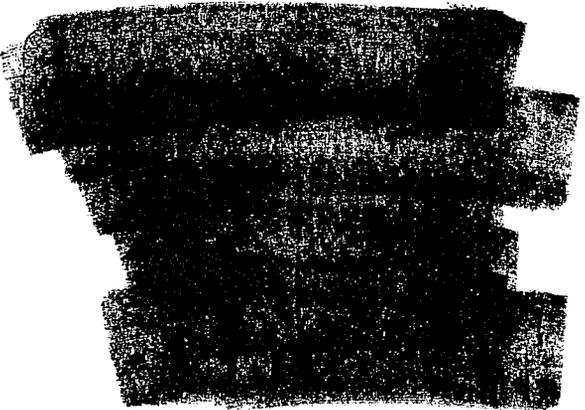
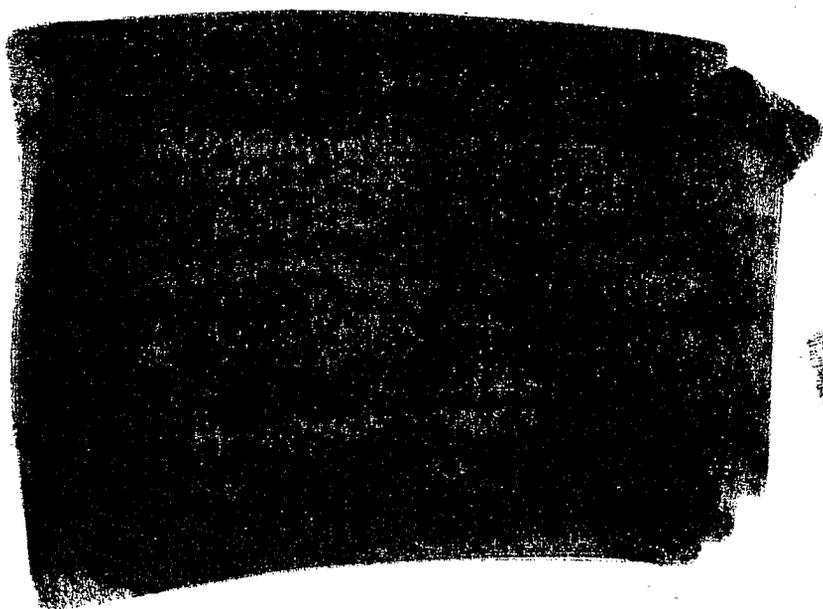
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Case No. 2004-00044

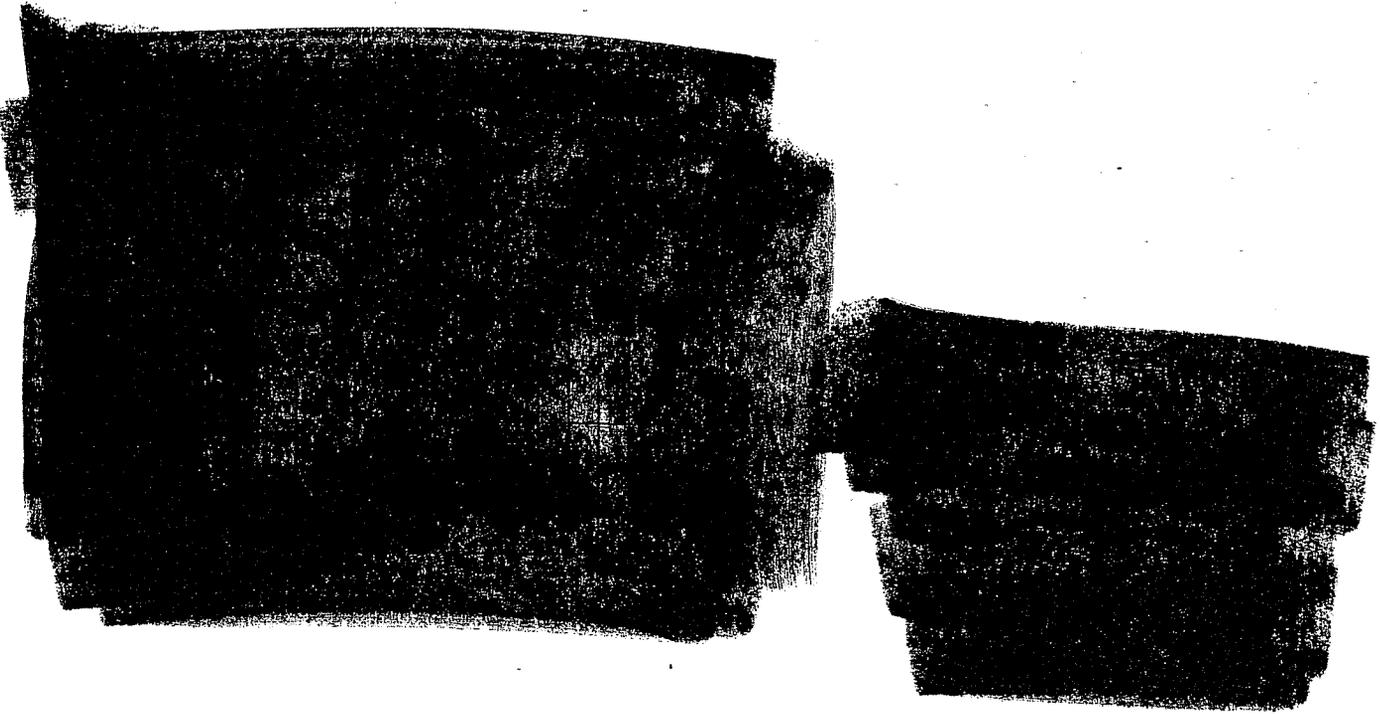
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BellSouth Telecommunications, Inc.
675 Peachtree Street
Suite 4300
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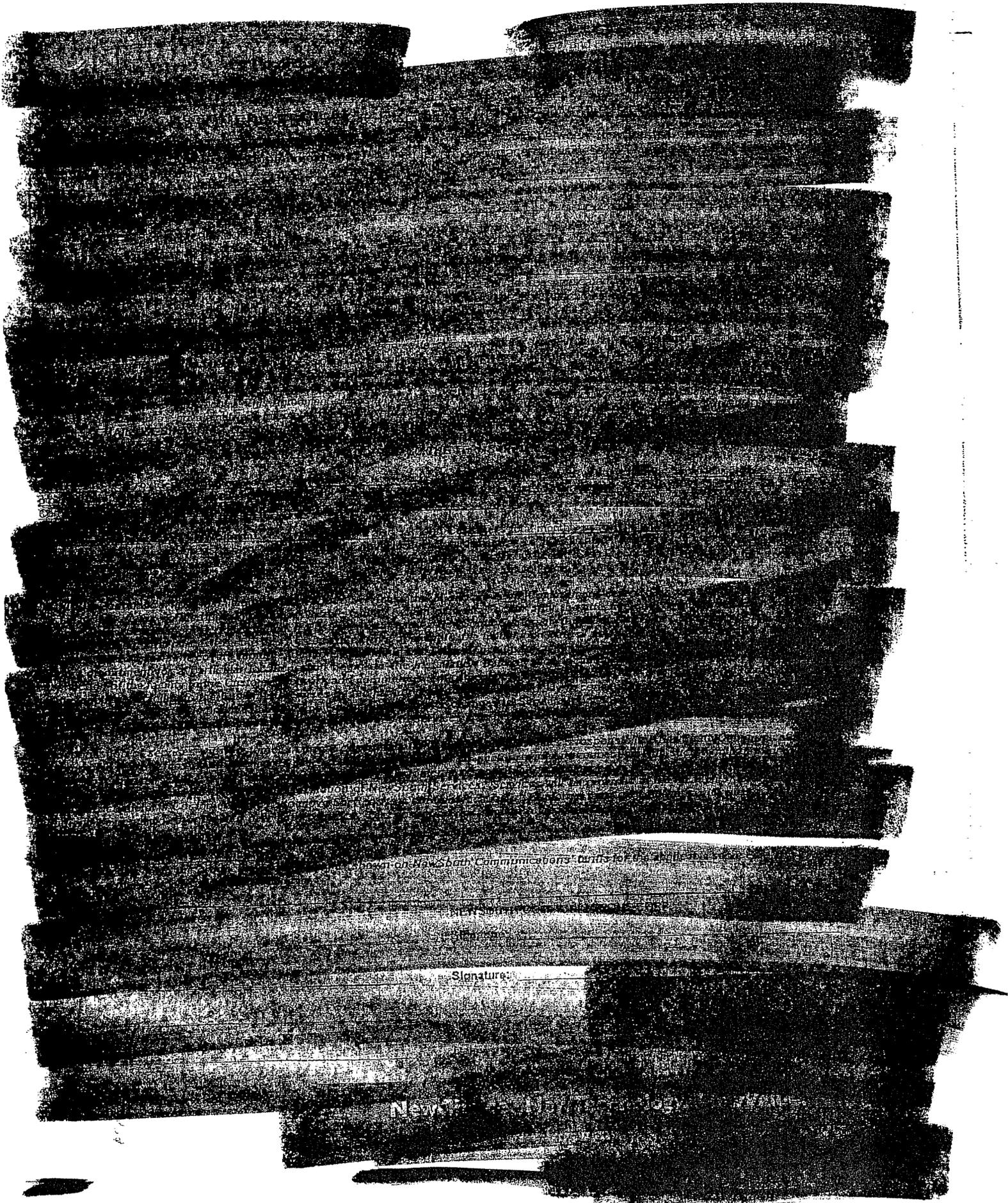
Dorothy J. Chambers
General Counsel/Kentucky
BellSouth Telecommunications, Inc.
601 W. Chestnut Street, Room 410
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Louisville, KY 40232
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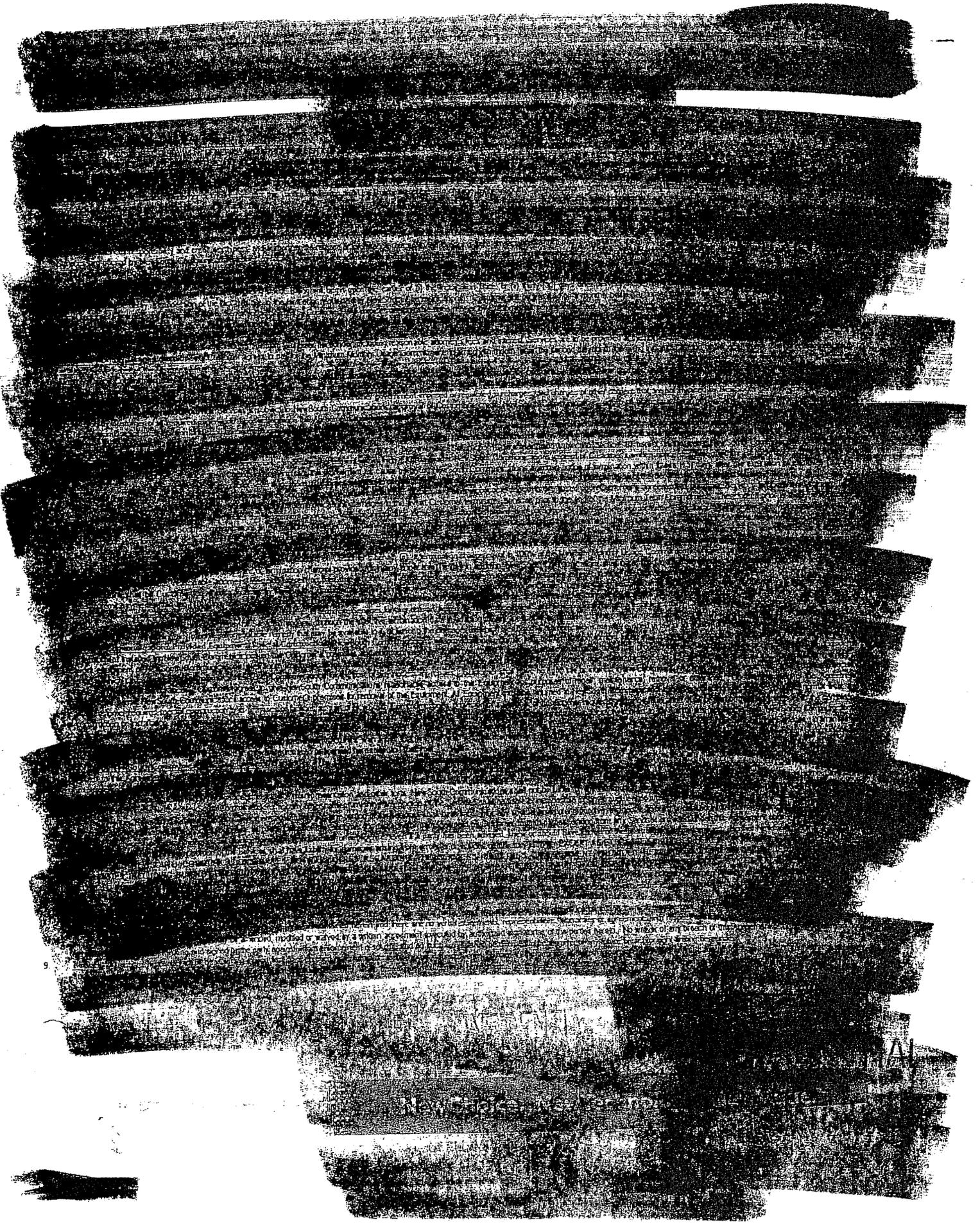






Signature

New York



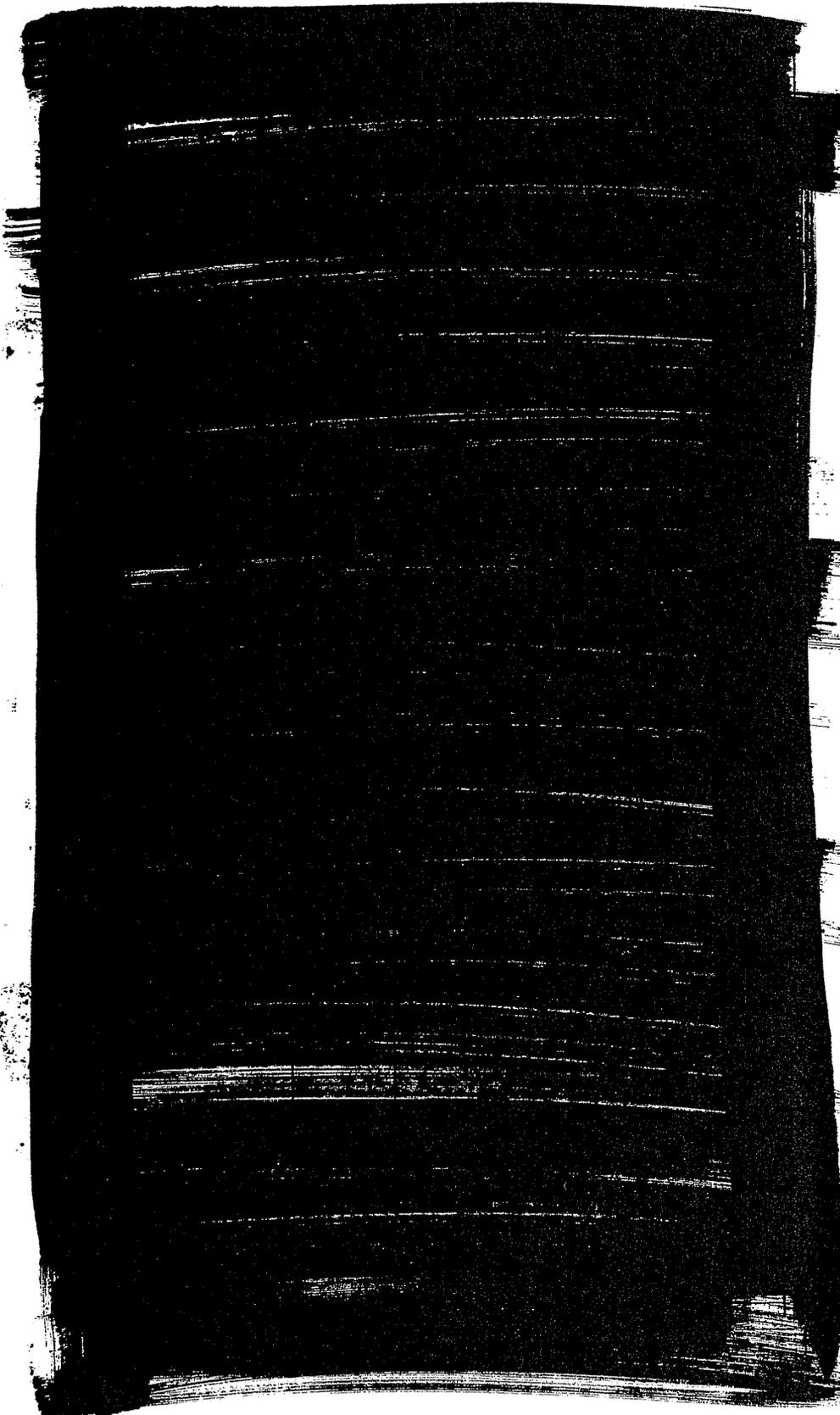


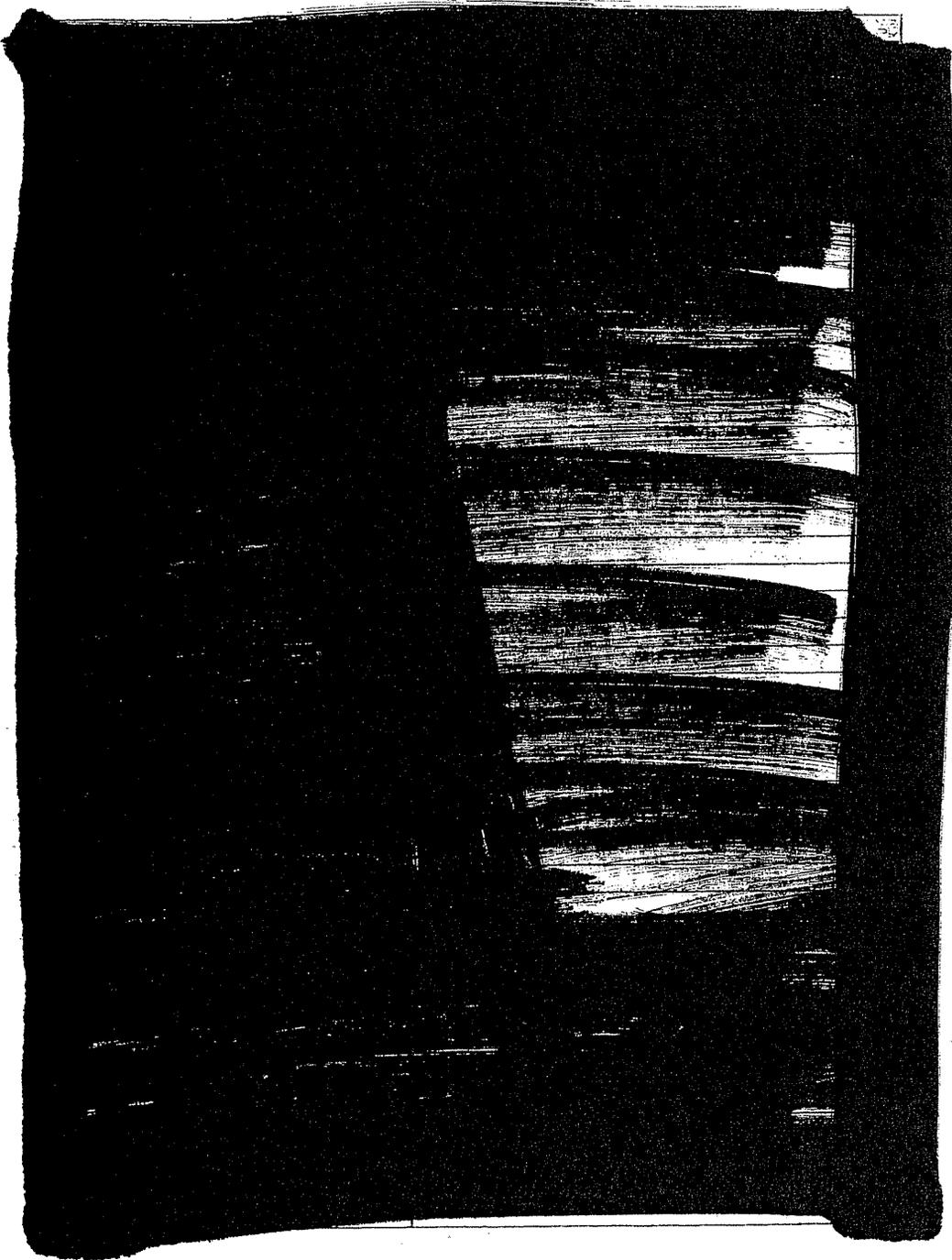
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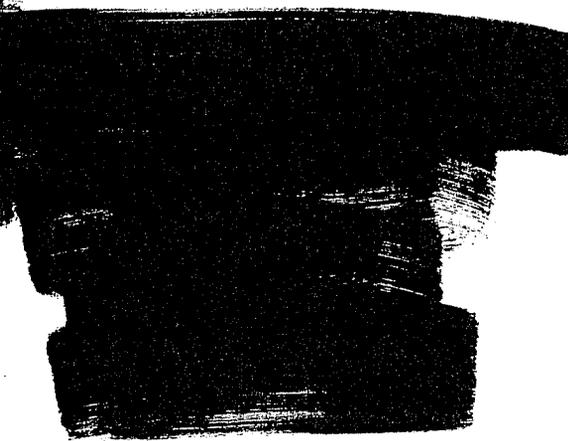
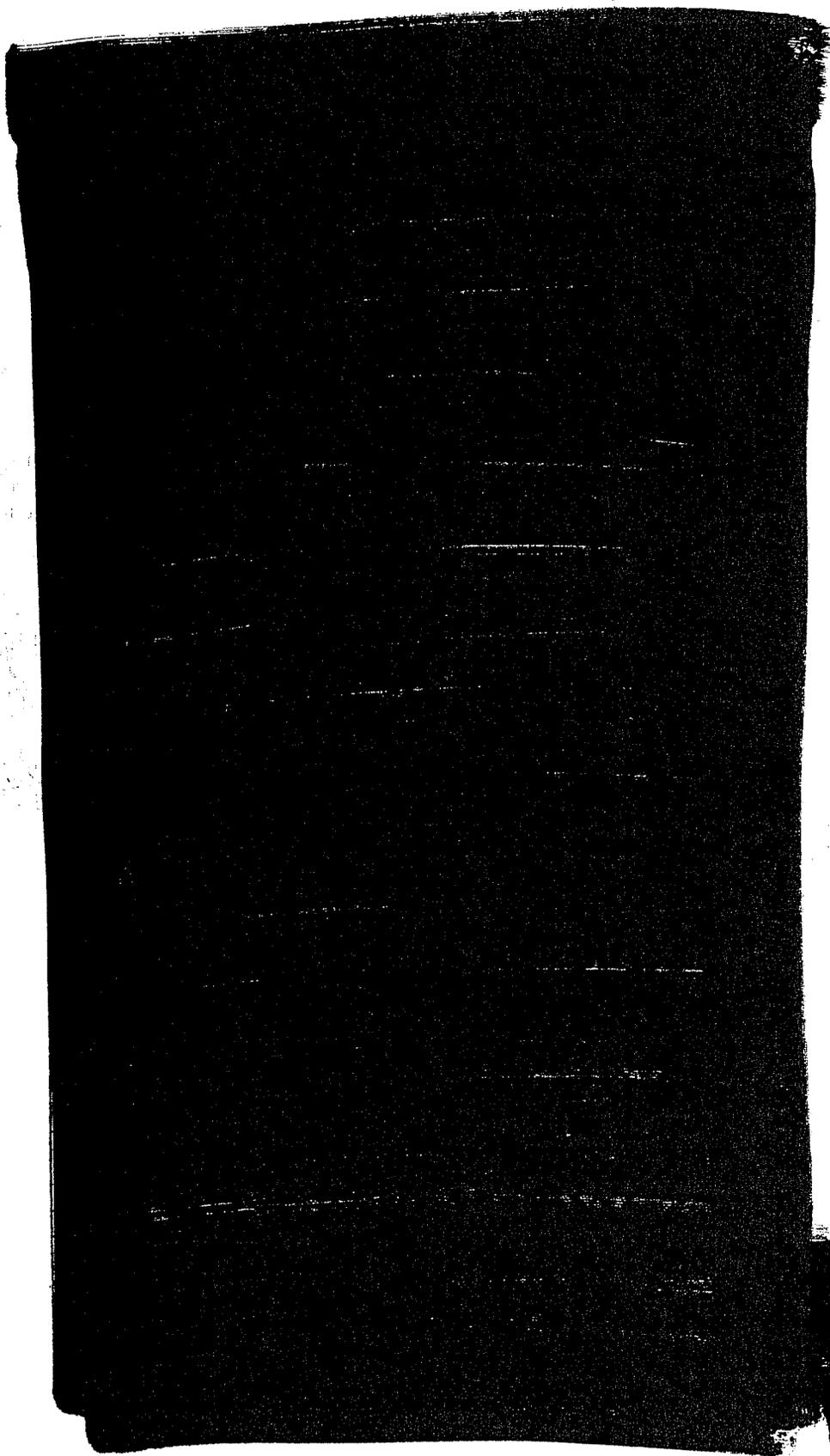
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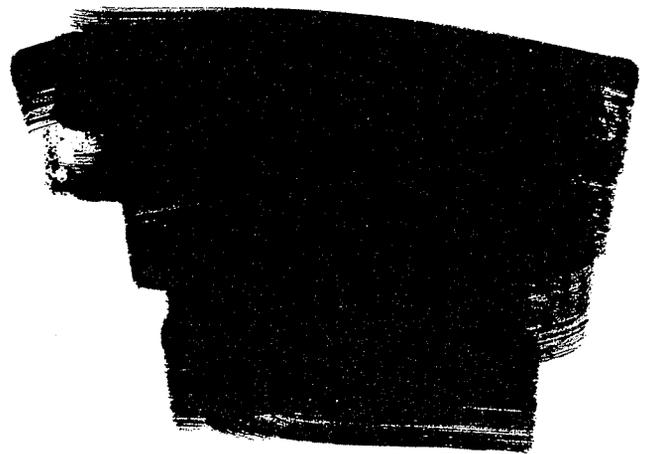
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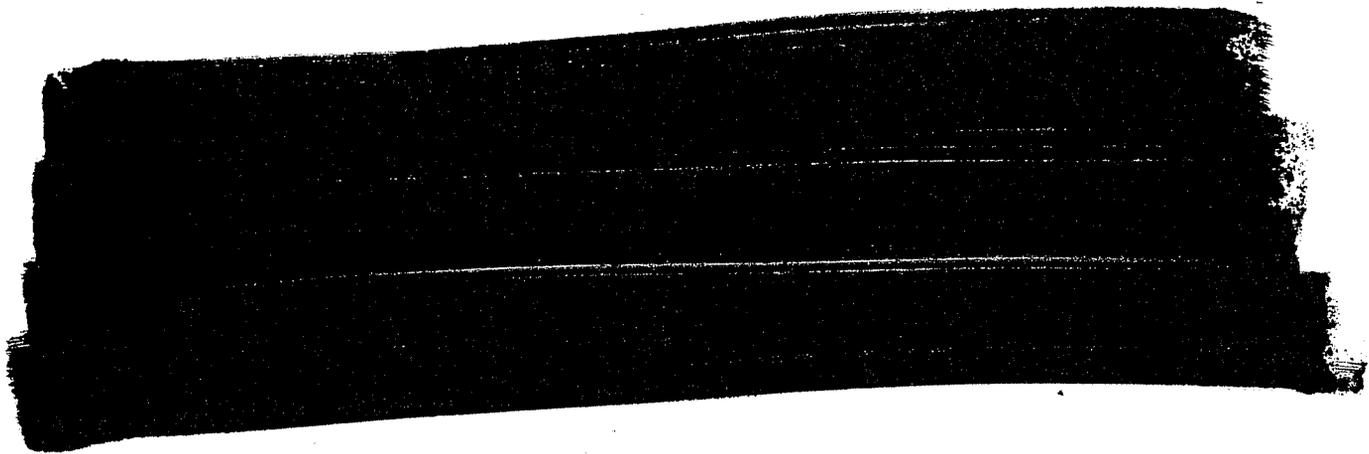
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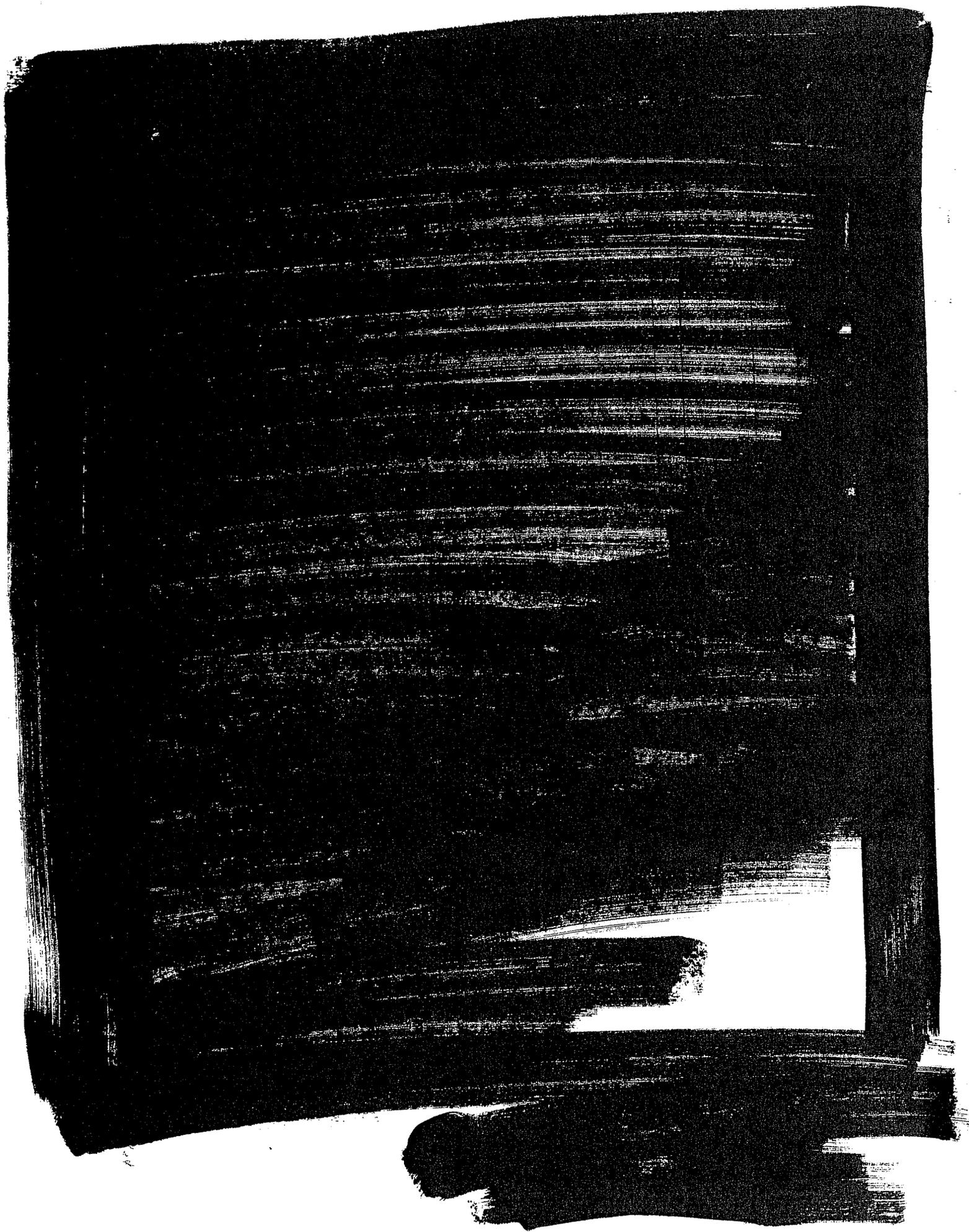
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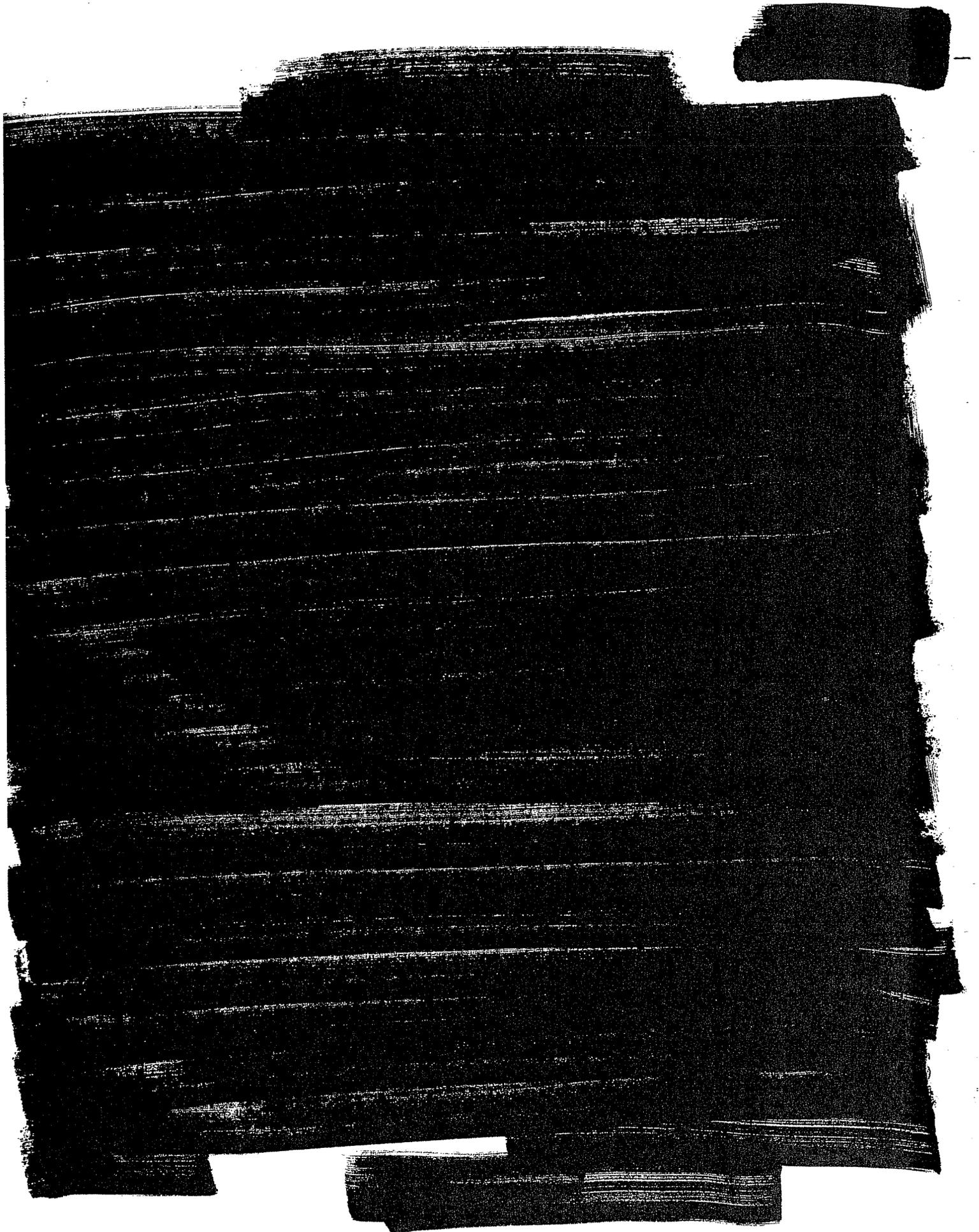
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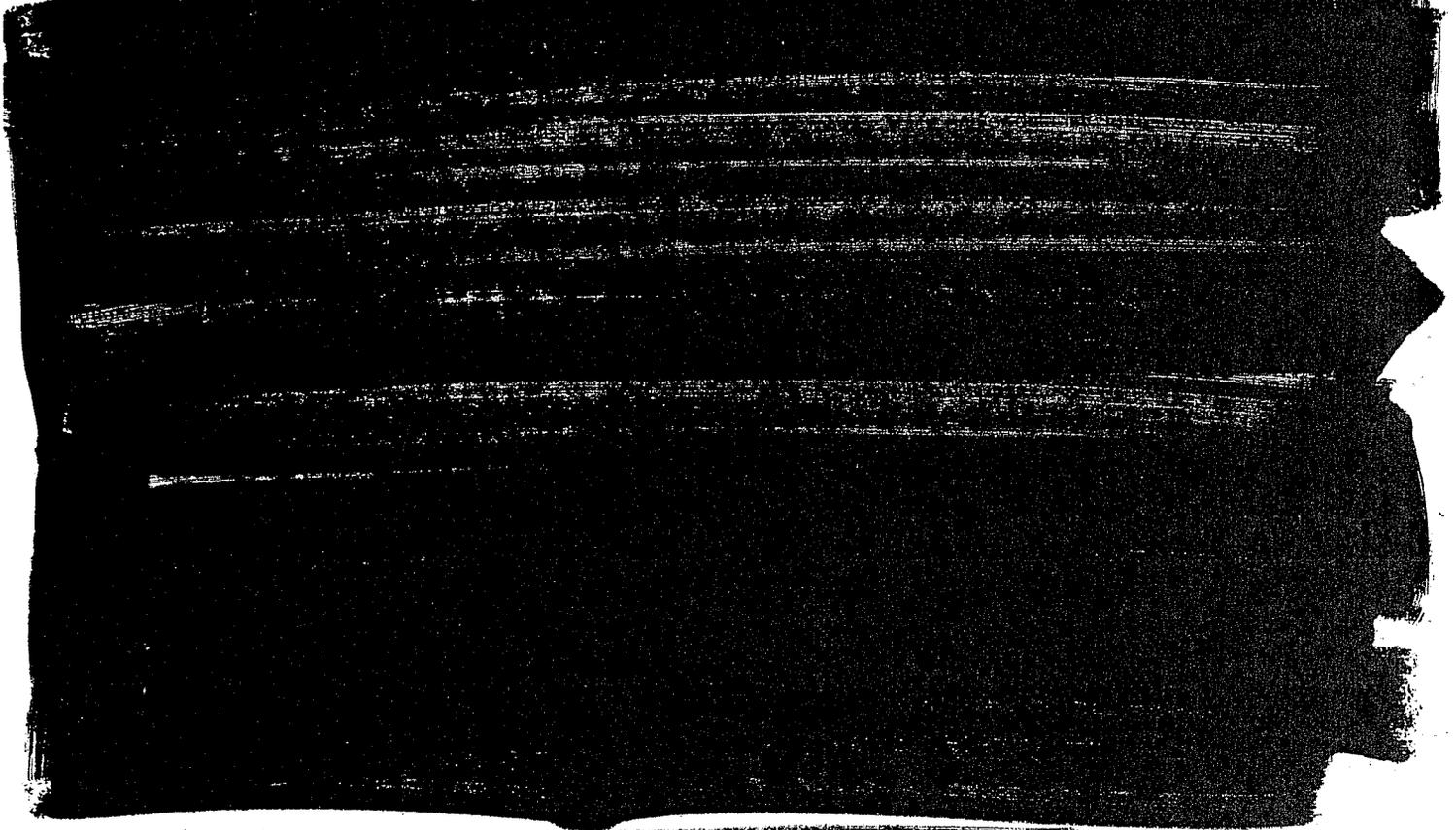
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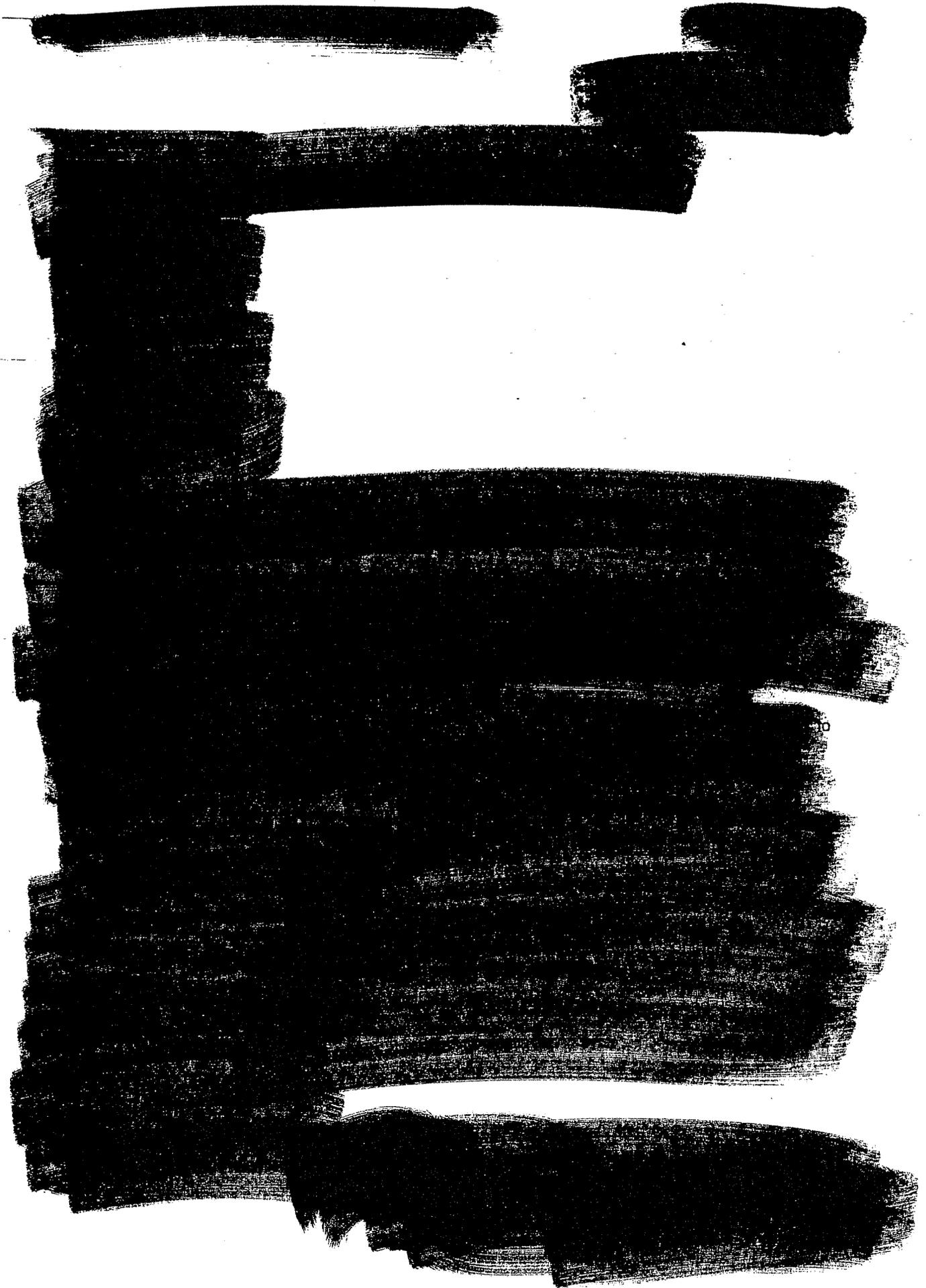
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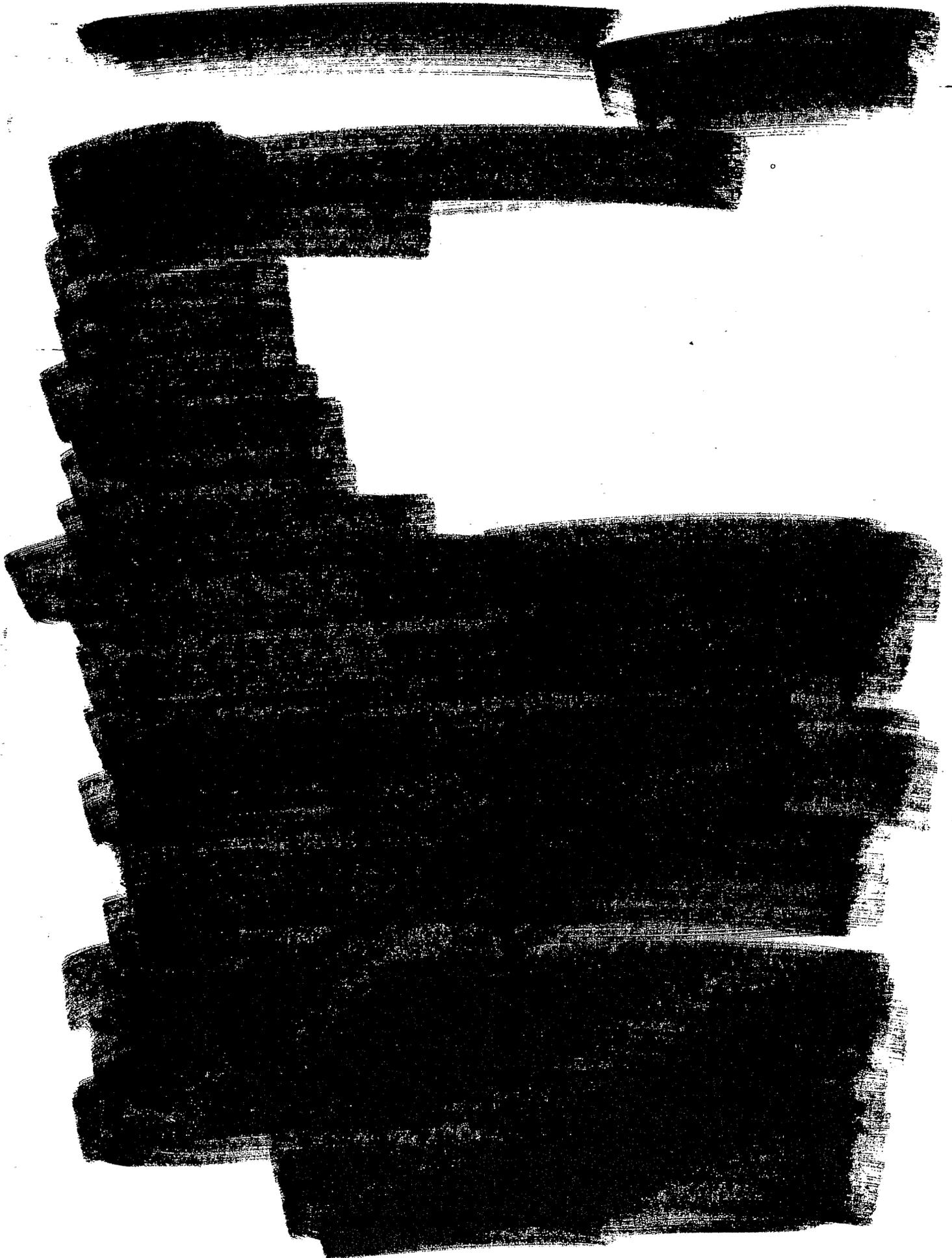


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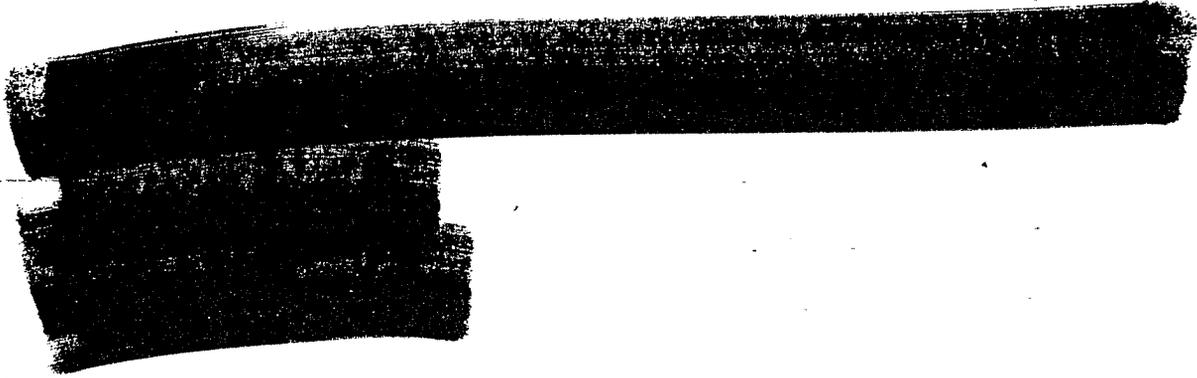
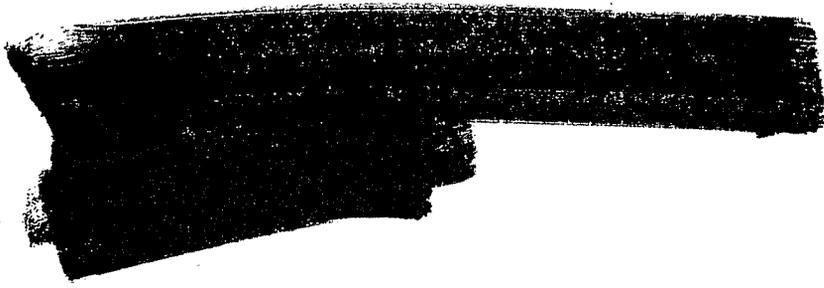


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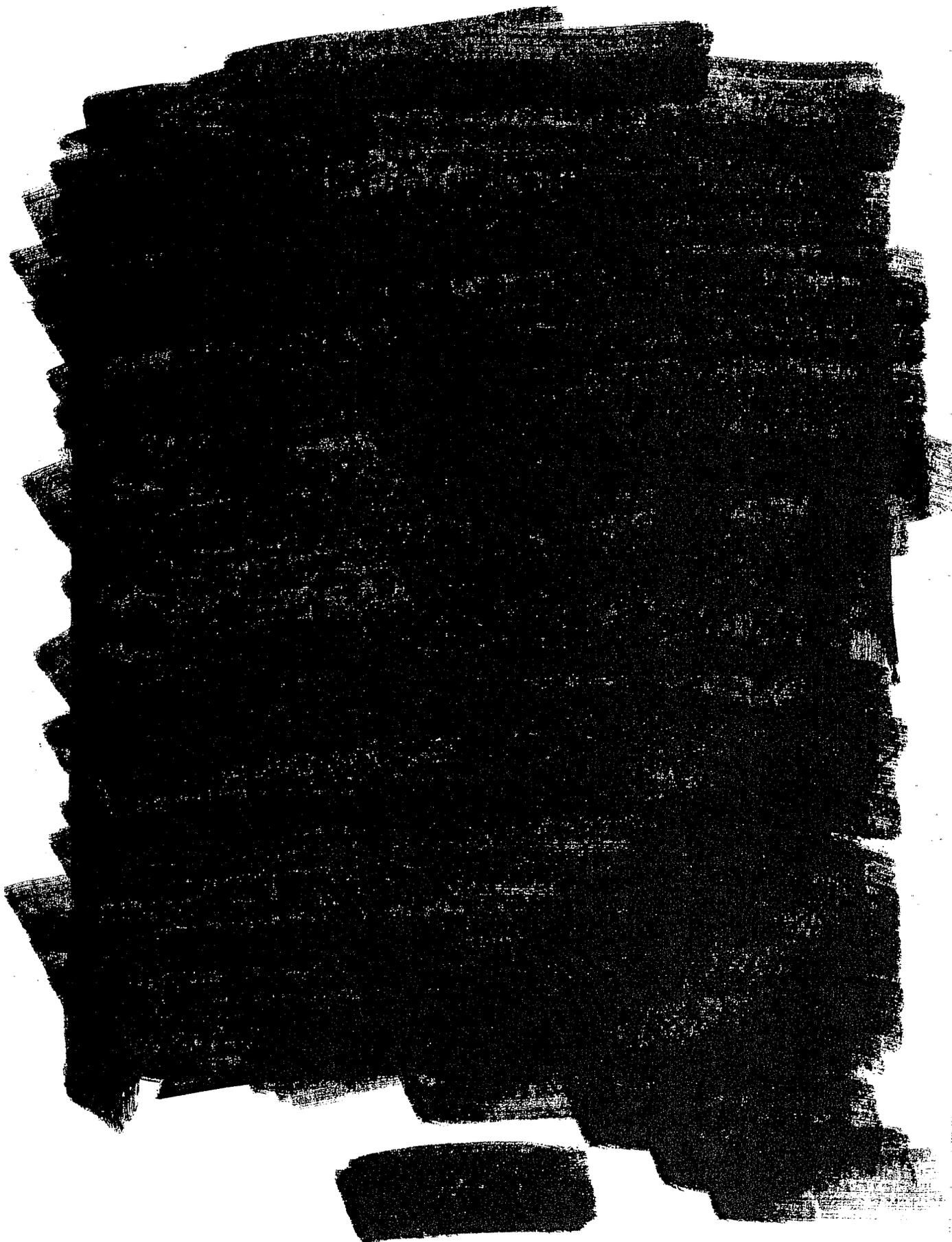
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